IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 1398 of 2005

Between:

Adarsa Upper Primary School, Premnagar, Erragadda, Hyderabad,
rep., by its Correspondent Smt.T.Jyothi.

..... PETITIONER

AND

1 State of Andhra Pradesh, rep., by its Secretary, School Education, Secretariat, Hyderabad.
2 Commissioner & Director of School Education, A.P., Hyderabad.
3 The District Educational Officer, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ more in the nature of a writ of mandamus declaring the action of the respondents in seeking to stop the process of selection and recruitment to the aided posts in the petitioner institution purporting to act upon the Government Memo No.Vide No.12080/COSE/A2/2004-4 EDN.(COSE) Dept., dated 20-10-2004 despite permission was granted for process of recruitment to the proceedings of the District Educational officer in Rc.No.4028/D4/2004 dated 30-8-2004 as being arbitrary and illegal and malafide, violating Articles 14 of the Constitution of India and issue consequential direction to the respondents to permit the management to go ahead with the process recruitment of aided vacant posts in the petitioner institution and release grant in favour of the recruitees.

Counsel for the Petitioner: MR.CH.SAMSON BABU

Counsel for the Respondent No.: GP FOR SCHOOL EDUCATION

The Court made the following :

O R D E R

This writ petition has been filed by Adarsa Upper Primary School, represented by its Correspondent Smt. T. Jyothi, assailing the action of the District Educational Officer, Hyderabad, in stopping the process of recruitment to the aided posts in the petitioner-school.

Certain vacancies in the petitioner-school have arisen due to the retirement of the staff. The vacant posts are three in number. Two posts are of Secondary Grade and one post is of Hindi Pandit Grade-II. On 18.05.2004 the District Educational Officer directed the petitioner-school to send proposals through the Deputy Inspector of Schools concerned for filling up the above referred posts. The District Educational Officer has appointed a Committee on 26.06.2004. The Committee visited the institution and submitted its report to the District Educational Officer. Thereupon, the District Educational Officer accorded permission to the management of the petitioner-school to fill up the vacant posts. Pursuant to the permission granted by the District Educational Officer, a notification has been issued calling for the applications for the posts referred above. Selection Committee has also been constituted. The District Educational Officer in his RC No. 4028/DIV/2004, dated 03.11.2004 has appointed Sri M. Kalpakam, the Deputy E.O. of Khairatabad as his nominee and sent the list of the names of the subject expert for constituting the Staff Selection Committee. While so, the District Educational Officer issued a memo, dated 09.11.2004, to stop the selection process. Hence, this writ petition questioning the said memo.

The respondents filed a counter-affidavit. One S. Jagannath Reddy has sworn to the counter-affidavit. The factual aspects as to giving clearance to the petitioner-school for filling of the aided posts and Constitutional Selection Committee are not disputed.

Heard the learned counsel for the petitioner and the learned Government Pleader for School Education.

The learned counsel for the petitioner submits that the District Educational Officer

has already permitted the petitioner-school to fill up the vacant posts and, therefore, the Government Memo, dated 20.10.2004, cannot be made applicable to the selection process already commenced. He placed reliance on the judgment of this Court in **St.Mary A.A.M.M. High School, Machavaram, Krishna District, represented by its Correspondent Sri B. Bhathi Babu and State of A.P. and two others (W.P.No. 24559 of 2004 dated 07.02.2005) and also in Batraju Krishnamurthy Memorial Educational Society, Nallacheruvu, Guntur and State of A.P. and two others (W.P.No. 22188 of 2004, dated 09.12.2004)**

The learned Government Pleader appearing for the respondents submits that since a ban has been imposed by the Government, the District Educational Officer is justified in issuing the Memo dated 09.11.2004.

Admittedly, the District Educational Officer has permitted the petitioner-school to fill up vacant posts under proceedings RC. No. 4028/D4/2004, dated 20.08.2004. He has also appointed Sri M. Kalpakam, Dy. E.O. as his nominee in the Selection Committee. By the time the Government issued a memo, dated 20.10.2004, the selection process has been commenced pursuant to the permission accorded to the petitioner-school to fill up vacant posts. It is evident from the Memo that the ban on filling up the existing vacancies is not applicable to the posts which have been authorized to fill up. For better appreciation, I may refer the text of the memo, dated 20.10.2004, is as follows:-

> *''The attention of the Commissioner and Director of School Education, A.P. Hyderabad is invited to the reference cited and he is informed that the Point No.17 of the Minutes of the High Level Meeting shalls be replaced with the following:-*
>
> *''No new posts of Grant-in-aid would be created and the existing vacancies will also not be filled up, except what has been specifically authorized since there is a General ban on recruitment except for the posts, for which permission was specifically granted by the Government."*
>
> *This may please be acknowledged.''*

Since the permission has already been accorded and selection process has been commenced, the above referred Memo cannot be applied to stall the

selection process. Therefore, this writ petition is disposed of with a direction to the respondents to consider the request of the petitioner to take further steps to fill up three vacant posts in question notwithstanding with the Memo dated 20.10.2004.

With the above observations, this writ petition is disposed of. No order as to costs.

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B. SESHASAYANA REDDY,J

6th July, 2005

vp

//true copy//

SECTION OFFICER

To

1. The Secretary, School Education, State of A.P. Secretariat, Hyderabad,
2. The Commissioner & Director of School Education, A.P. Hyderabad
3. The District Educational Officer, Hyderabad
4. 2 C.Cs to Govt. Pleader for School Education, High Court of A.P. Hyderabad (OUT)

5. 2 C.Ds.